

Serial No. 10/617,997
60130-1627; 02MRA0559**REMARKS**

Claims 1-2, 4-8, 10-13 and 16-19 are currently pending, claims 3, 9, 14 and 15 have been cancelled, and new claims 16-19 added. Applicant has amended several portions of the specification to correct minor inconsistencies and provides support for the new claims. No new matter has been added.

Claim 7 was rejected as being indefinite. Applicant has amended claim 7 to comply with the requirements of 35 USC § 112.

Claims 1-3, 5, 6, 8-13 and 15 were rejected as being anticipated by Riise (US 1,824,793). Amended claim 1 requires a web member within a housing that defines a lubricant containment chamber and includes an opening through which the shaft extends, wherein the web members and openings surrounds the shaft. Riise discloses only a dam (35), that does not surround a shaft extending through the dam (35). Accordingly, Riise does not disclose or suggest the limitations of claim 1.

Amended claim 11 requires two lubricant chambers disposed at distal ends of the housing, wherein the housing includes a middle section sealed between the at least two web members at each of the distal ends of the housing such that a middle section does not contain lubricant. Riise does not disclose or suggest a middle section that does not contain lubricant. Accordingly, this rejection should be withdrawn.

Claims 4 and 14 were rejected as being obvious over Riise as modified in view of Haluda (US 3,887,037). The Examiner has admitted that Riise does not include a shaft seal and proposed modifying the Riise device with a shaft seal disclosed in Haluda. Applicant respectfully traverses this rejection as the proposed combination is not proper as there is no benefit to the modification of Riise to include the seal of Haluda, and in fact such a modification would destroy an intended operation of the basic reference (Riise). Most importantly, since the Riise dam portion 35 does not extend around the shaft, a seal would serve little purpose.

Further, the Riise dam portion 35 that prevents a portion of lubricant from draining out of a gear case area when the axle is tilted. (Riise, page 2, col. 2, lines 94-100). However, some lubrication is desired and can flow past the dam portion 35 for lubrication purposes. On the other hand, the examiner points to the a lubricant reservoir in Haluda that includes a seal 118 about a shaft 12L (Please see Haluda Figure 2) that prevents lubricant from flowing past the shaft 12L and out of the housing. Including such a positive seal in the Riise device would prevent all lubricant

Serial No. 10/617,997
60130-1627; 02MRA0559

from flowing into a center section and therefore not provide any lubrication to the center as is required during operation of the Riise device. Such an outcome would destroy the intended operation of the Riise dam member (to prevent some and allow some lubricant flow) and therefore cannot support the required motivation and suggestion.

Claim 14 has been cancelled and the limitations included in amended claim 11. The proposed combination of Riise with Haluda does not disclose the limitations of amended claim 11. Claim 11 requires two web members, two lubricant chambers and a middle section sealed between the two web members at each of the distal ends of the housing such that a middle section does not contain lubricant. The combination of Riise and Haluda does not disclose or suggest such features and for at least this reason alone, claim 11 is in allowable form.

Applicant has added new claims 16-19. Claims 16 and 17 both require that the web member extend completely between inner walls of the housing. Claims 18 and 19 require that lubricant within the lubricant chamber is at a level above the shaft. The cited prior art does not disclose a web member that extends completely between inner walls of the housing. Further, the prior art does not disclose a lubricant at a level above a shaft.

Thus, the claims are in condition for allowance. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.


John M. Siragusa
Registration No. 46,174
400 West Maple Road, Suite 350
Birmingham, Michigan 48009
Telephone: (248) 988-8360
Facsimile: (248) 988-8363

Dated: November 10, 2005